

November 9, 2001

Mr. Alan M. Parker
President and CEO
Kaiser-Hill Company, L.L.C.
Rocky Flats Environmental Technology Site
10808 Highway 93, Unit B
Golden, Colorado 80403-8200

Dear Mr. Parker:

This letter responds to your October 25, 2001, request for temporary exemption from a provision contained in Title 10 of the Code of Federal Regulations, Part 835 (10 CFR 835), "Occupational Radiation Protection." Specifically, this response concerns your request for exemption from a provision contained in 10 CFR 835 as it applies to providing radiation safety training at intervals not to exceed 24 months for site protective force (PF) personnel. The purpose of the exemption request was to obtain relief from requirements due to the response to the terrorist attacks on September 11, 2001, which requires site PF personnel to be fully dedicated to providing additional security services in accordance with Department of Energy (DOE) and national security directives.

The Office of Safety and Health conducted a technical review of the exemption request (enclosed). The DOE Rocky Flats Field Office forwarded your request recommending approval. Based on our review of the materials that were provided, the DOE is granting a temporary exemption, with conditions, from the provision of 10 CFR 835 as it relates to providing radiation safety training at intervals not to exceed 24 months for site PF personnel.

The enclosed technical review provides additional information concerning the exemption decision.

The DOE Rocky Flats Field Office and the Office of Environmental Management concur with this exemption decision.

Sincerely,

Original signed by

Steven V. Cary
Acting Assistant Secretary
Office of Environment, Safety and Health

2 Enclosures

cc w/enclosures:
See attached list

cc w/enclosures:

Jessie H. Roberson, EM-1

Barbara A. Mazurowski, DOE-Rocky Flats

Keith Christopher, DOE/EH-10

Docketing Clerk, DOE/EH-10

Radiological Control

Coordinating Committee

Price Anderson Amendments

Act Coordinator - Rocky Flats

Technical Position

Kaiser Hill - Radiation Safety Training Title 10 of the Code of Federal Regulations, Part 835 (10 CFR 835) Exemption Request

Kaiser-Hill Company, L.L.C. (Kaiser-Hill), the contractor for the Rocky Flats Environmental Technology Site (RFETS), seeks relief from a requirement contained in 10 CFR 835, "Occupational Radiation Protection," for providing radiation safety training at intervals not to exceed 24 months for site protective force (PF) personnel.

As discussed below, temporary relief from a specific provision of 10 CFR 835 is justified. The Department of Energy (DOE) Office of Worker Protection Policy and Programs (EH-52) recommends providing temporary exemption to that section of 10 CFR 835 as specifically discussed in this technical position.

Discussion of Exemption Request

General

Kaiser-Hill submitted a request for exemption from a provision in 10 CFR 835 that requires radiation safety training be provided to individuals at intervals not to exceed 24 months. In response to the terrorist attacks on September 11, 2001, the site PF personnel have been fully dedicated to providing additional security services in accordance with DOE and national security directives. Subsequently, the scheduled radiation safety training, which is due to be completed by November 15, 2001, cannot be completed in the time period specified in 10 CFR 835.

Requirement From Which Exemption is Sought

Subpart J--Radiation Safety Training

§ 835.901 Radiation safety training.

- (e) Radiation safety training shall be provided to individuals when there is a significant change to radiation protection policies and procedures that may affect the individual and at intervals not to exceed 24 months. Such training provided for individuals subject to the requirements of § 835.901(b)(1) and (b)(2) shall include successful completion of an examination.

Results of Analysis

Discussion

In response to the terrorist attacks on September 11, 2001, RFETS has been on a heightened security

posture. Staffing of the site PF personnel was at a level to support site planned activities (decontamination and decommissioning - D&D). The heightened security posture has resulted in

site PF personnel being fully dedicated to providing additional security services in accordance with DOE and national security directives. Subsequently, the scheduled radiation safety training cannot be completed by November 15, 2001, as required by 10 CFR 835.

The following specific items were noted in Kaiser-Hill's exemption request:

PF personnel do not perform nuclear material handling, conduct radiological operations, or complete physical D&D activities. However, they provide a security support function that may occur in radiological areas.

All PF personnel are currently Radiological Worker qualified.

A requalification schedule was provided:

Date	% PF Personnel Requalified
01-31-02	30
02-28-02	60
03-30-02	95
04-10-02	100

To ensure compliance, the PF group will report monthly to Kaiser-Hill on the status of completed training.

Concurrence

Temporary relief from the training requirements should be provided. This is in recognition of the additional measures the site must take in response to the terrorist attacks on September 11, 2001.

Conclusion

The above exemption meets the criteria for granting a temporary exemption under 10 CFR 820.62:

1. Granting this exemption would be authorized by law.
2. This exemption would not present an undue risk to public health and safety, the environment, or facility workers.

3. The exemption would be consistent with the safe operation of a DOE nuclear facility.
4. In granting this exemption pursuant to §820.62(d)(5), the DOE recognizes that special circumstances exist that justify temporary relief from application of the requirement while the contractor is taking good faith action to achieve compliance.

Based on the above, EH-52 concurs with the request for temporary exemption, with the conditions that:

The temporary exemption is valid until April 10, 2002;

The temporary exemption is applicable only for PF personnel who were Radiological Worker qualified as of the date of the exemption request (i.e., October 25, 2001);

Kaiser-Hill shall establish a training schedule to requalify personnel in accordance with the schedule provided in the exemption request;

Kaiser-Hill shall notify the DOE Rocky Flats Field Office Manager if any of the milestones on the training schedule are not met; and

This notification shall include corrective actions to put the PF training back on schedule and to maintain training qualification per 10 CFR 835.901(e) in the future.

EXEMPTION DECISION

Pursuant to title 10 of the Code of Federal Regulations, part 820.61 (10 CFR 820.61), the Assistant Secretary for Environment, Safety and Health is authorized to exercise authority on behalf of the Department of Energy (DOE) with respect to requests for exemptions from nuclear safety rules relating to radiological protection of workers, the public, and the environment.

On October 25, 2001, Kaiser-Hill Company, L.L.C. (Kaiser-Hill), the contractor for the Rocky Flats Environmental Technology Site (RFETS), filed a request with the Department for temporary exemption from a requirement of Title 10 of the Code of Federal Regulations, Part 835 (10 CFR 835), "Occupational Radiation Protection."

In particular, Kaiser-Hill requested relief from a provision in 10 CFR 835 for providing radiation safety training at intervals not to exceed 24 months.

The requested temporary exemption is not prohibited by law; will not present an undue risk to the public health and safety, the environment, or facility workers; and is consistent with the safe operation of a DOE nuclear facility.

Under the terms set forth in 10 CFR 820.61, I am the Secretarial Officer granted review and approval authority for exemption requests made with respect to 10 CFR 835. Based on a review of the supporting documentation, I find that the request set forth above has been justified for relief. Specifically, I find that the exemption criteria of 10 CFR 820.62 have been met. I have determined that the exemption meets the special circumstances, described in the technical position prepared by the Office of Worker Protection Policy and Programs (EH-52), that constitute a sufficient basis upon which to grant this exemption.

On the basis of the foregoing, I hereby approve Kaiser-Hill's request for temporary exemption from the following section of 10 CFR 835, with conditions:

§835.901 Radiation safety training.

Conditions:

1. The temporary exemption is valid until April 10, 2002.
2. The temporary exemption is applicable only for PF personnel who were Radiological Worker qualified as of the date of the exemption request (i.e., October 25, 2001).
3. Kaiser-Hill shall notify the DOE Rocky Flats Operations Field Manager if any of the milestones on the below training schedule are not met.

Training Schedule

Date	% PF Personnel Requalified
01-31-02	30
02-28-02	60
03-30-02	95
04-10-02	100

4. The notification shall include corrective actions to put the PF training back on schedule and to maintain training qualification per 10 CFR 835.901(e) in the future.

Pursuant to 10 CFR 820.66, Kaiser-Hill has 15 days from the date of the filing of this decision to file a Request to Review with the Secretary. The Request to Review shall state, specifically, the respects in which the exemption determination is claimed to be erroneous, the grounds of the request, and the relief requested. If no Request to Review is submitted, the exemption decision becomes a final order 15 days after it is filed.

November 9, 2001
Date

Original signed by
Steven V. Cary
Acting Assistant Secretary
Office of Environment, Safety and Health